

Chesapeake Bay Exception CBE-10-034: 109 Longboat

Staff report for the November 12, 2009, Chesapeake Bay Board Public Hearing.

This staff report is prepared by the James City County Environmental Division to provide information to the Chesapeake Bay Board to assist them in making a recommendation on this assessment. It may be useful to members of the general public interested in this assessment.

Existing Site Data & Information

Applicant	Donald M. Deane
Land Owner	Donald M. Deane & Susanne M Curtis
Location	109 Longboat, Ford's Colony, Williamsburg, Virginia
Parcel Identification	3130900033
Lot Size:	.52 acres
RPA Area on Lot	.38 acres or 73 % of the lot.
Watershed	Powhatan Creek, Subwatershed 203
Proposed Activity:	Installation of a Segmental Block Retaining Wall

Proposed Impacts

Impervious Area	15 square feet
RPA Encroachment	Landward 50 foot RPA Buffer

Brief Description and Summary

Mr. Donald M. Deane, of 4400 Kings James, Williamsburg, Va. has applied for an exception to the Chesapeake Bay Preservation Ordinance (Ordinance) for an encroachment into the RPA buffer, for the construction of segmental block retaining wall totaling 23 LF in length, with 15' LF extending into the landward 50 foot RPA buffer. The wall will create 15 square feet of impervious area within the RPA Buffer.

A detailed RPA Mitigation Planting Plan (Plan) has been provided along with the exception request for your review. The plan proposes to mitigate for the RPA impacts by planting (1) native canopy trees and (3) native shrubs, in mulch planting beds to help filter runoff. The amount of plantings proposed meets the standard mitigation planting requirements of the County for impervious impacts. In addition the applicant has offered additional mitigation by reducing the amount of turf area onsite and replacing it with native plants. Therefore this proposal will reduce the current encroachment into the RPA.

Background

The lot was recorded after the adoption of the Ordinance, and no RPA existed on the lot at that time. In 2004 the Ordinance requirements related to the determination of perennial flow were changed requiring that perennial water bodies be identified based on a field evaluation. A perennial feature at the rear of the lot was identified requiring that a 100 foot RPA buffer be established on the lot.

In this case, the exception request is for segmental block retaining wall, within the landward 50 foot buffer. This request does not qualify for an administrative waiver because it is for an accessory structure. Therefore in accordance with section 23-14 of the Ordinance, an exception must be processed by the Chesapeake Bay Board after a public hearing.

Water Quality Impact Assessment (WQIA)

Under Section 23-14 of the amended Ordinance, a water quality impact assessment (WQIA) must be submitted for any proposed land disturbing activity resulting from development or redevelopment within RPAs.

The applicant has submitted the required information as outlined in the *James City County Water Quality Impact Assessment Guidelines*. The applicant has submitted a WQIA for this project and proposes to mitigate for the impacts to the RPA by planting, (1) native canopy tree and (3) native shrubs, in the RPA on the lot to help filter nonpoint source pollution.

Staff Recommendations

The issue before the Board is the addition of the 15 square feet of impervious area within the RPA buffer. The Board is to determine whether or not this is consistent with the spirit and intent of the Ordinance and make a finding based upon the criteria outlined in Section 23-14(c) of the Ordinance.

Staff evaluated the potential adverse impacts of this proposal and determined them to be minimal.

If the Board votes to approve the exception request, then staff recommends that the following conditions be incorporated into the approval:

1. The applicant must obtain all other permits required from agencies that may have regulatory authority over the proposed activities, including a James City County building permit if required.
2. The size of the trees planted shall be a minimum of 1-1/2 inch caliper (six to eight feet tall) and the shrubs shall be 3 gallon size. All vegetation shall be native species approved by the Environmental Division.
3. Full implementation of the RPA Mitigation Plan submitted with the WQIA and any additional Board mitigation requirements shall be guaranteed through the provisions of the Ordinance contained in Sections 23-10(3) d. and 23-17(c), a form of surety satisfactory to the County Attorney.

4. This exception request approval shall become null and void if construction has not begun by November 12, 2010, or all improvements including the required mitigation plantings are not completed by that expiration date.
5. Written requests for an extension to an exception shall be submitted to the Environmental Division no later than 2 weeks prior to the expiration date.

Staff Report prepared by:

Patrick T. Menichino
Compliance Specialist

CONCUR:

Scott J. Thomas,
Secretary to the Board

Attachments: